

CHAPTER 2022-35

Committee Substitute for Committee Substitute for Senate Bill No. 1222

An act relating to acute and post-acute hospital care at home; amending s. 401.23, F.S.; defining the term “acute and post-acute hospital care at home”; amending s. 401.272, F.S.; authorizing paramedics to perform certain life support services to patients receiving acute and post-acute hospital care at home under certain circumstances; providing that a physician or medical director who supervises or directs the provision of such services by a paramedic is liable for any act or omission during the provision of such services; authorizing the Department of Health to adopt and enforce rules; amending s. 465.003, F.S.; defining the term “acute and post-acute hospital care at home”; amending s. 465.019, F.S.; specifying that Class III institutional pharmacies may dispense, distribute, compound, and fill prescriptions for medicinal drugs for inpatient treatment and patients receiving acute and post-acute hospital care at home; amending ss. 14.33, 125.01045, 166.0446, 252.515, 395.1027, 400.143, 401.245, 401.27, 409.9201, 458.331, 459.015, 465.014, 465.015, 465.0156, 465.016, 465.0197, 465.022, 465.023, 465.1901, 465.1902, 499.003, and 893.02, F.S.; conforming cross-references; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsections (1) through (22) of section 401.23, Florida Statutes, are redesignated as subsections (2) through (23), respectively, a new subsection (1) is added to that section, and present subsection (19) of that section is amended, to read:

401.23 Definitions.—As used in this part, the term:

(1) “Acute and post-acute hospital care at home” means acute and post-acute health care services provided in a clinically qualified patient’s permanent residence, as defined in s. 196.012(17), through a program approved by the Centers for Medicare and Medicaid Services and the Agency for Health Care Administration.

~~(20)(19)~~ “Physician” means a practitioner who is licensed under the provisions of chapter 458 or chapter 459. For the purpose of providing medical direction ~~“medical direction” as defined in subsection (14) for the treatment of patients immediately before prior to or during transportation to a United States Department of Veterans Affairs medical facility,~~ “physician” also means a practitioner employed by the United States Department of Veterans Affairs.

Section 2. Paragraph (c) is added to subsection (2) of section 401.272, Florida Statutes, to read:

401.272 Emergency medical services community health care.—

(2) Notwithstanding any other provision of law to the contrary:

(c) Paramedics may provide basic life support services and advanced life support services to patients receiving acute and post-acute hospital care at home as specified in the paramedic’s supervisory relationship with a physician or standing orders as described in s. 401.265, s. 458.348, or s. 459.025. A physician who supervises or provides medical direction to a paramedic who provides basic life support services or advanced life support services to patients receiving acute and post-acute hospital care at home pursuant to a formal supervisory relationship or standing orders is liable for any act or omission of the paramedic acting under the physician’s supervision or medical direction when providing such services. The department may adopt and enforce rules necessary to implement this paragraph.

Section 3. Section 465.003, Florida Statutes, is reordered and amended to read:

465.003 Definitions.—As used in this chapter, the term:

(1) “Acute and post-acute hospital care at home” means acute and post-acute health care services provided in a clinically qualified patient’s permanent residence, as defined in s. 196.012(17), through a program approved by the Centers for Medicare and Medicaid Services and the Agency for Health Care Administration.

~~(2)~~(1) “Administration” means the obtaining and giving of a single dose of medicinal drugs by a legally authorized person to a patient for her or his consumption.

~~(4)~~(2) “Board” means the Board of Pharmacy.

~~(10)~~(3) “Consultant pharmacist” means a pharmacist licensed by the department and certified as a consultant pharmacist pursuant to s. 465.0125.

~~(11)~~(4) “Data communication device” means an electronic device that receives electronic information from one source and transmits or routes it to another, including, but not limited to, any such bridge, router, switch, or gateway.

~~(12)~~(5) “Department” means the Department of Health.

~~(13)~~(6) “Dispense” means the transfer of possession of one or more doses of a medicinal drug by a pharmacist to the ultimate consumer or her or his agent. As an element of dispensing, the pharmacist shall, prior to the actual physical transfer, interpret and assess the prescription order for potential adverse reactions, interactions, and dosage regimen she or he deems appropriate in the exercise of her or his professional judgment, and the pharmacist shall certify that the medicinal drug called for by the

prescription is ready for transfer. The pharmacist shall also provide counseling on proper drug usage, either orally or in writing, if in the exercise of her or his professional judgment counseling is necessary. The actual sales transaction and delivery of such drug shall not be considered dispensing. The administration shall not be considered dispensing.

~~(14)~~(7) “Institutional formulary system” means a method whereby the medical staff evaluates, appraises, and selects those medicinal drugs or proprietary preparations which in the medical staff’s clinical judgment are most useful in patient care, and which are available for dispensing by a practicing pharmacist in a Class II or Class III institutional pharmacy.

~~(15)~~(8) “Medicinal drugs” or “drugs” means those substances or preparations commonly known as “prescription” or “legend” drugs which are required by federal or state law to be dispensed only on a prescription, but shall not include patents or proprietary preparations as hereafter defined.

~~(18)~~(9) “Patent or proprietary preparation” means a medicine in its unbroken, original package which is sold to the public by, or under the authority of, the manufacturer or primary distributor thereof and which is not misbranded under the provisions of the Florida Drug and Cosmetic Act.

~~(19)~~(10) “Pharmacist” means any person licensed pursuant to this chapter to practice the profession of pharmacy.

~~(20)(a)~~(11)(a) “Pharmacy” includes a community pharmacy, an institutional pharmacy, a nuclear pharmacy, a special pharmacy, and an Internet pharmacy.

1. The term “community pharmacy” includes every location where medicinal drugs are compounded, dispensed, stored, or sold or where prescriptions are filled or dispensed on an outpatient basis.

2. The term “institutional pharmacy” includes every location in a hospital, clinic, nursing home, dispensary, sanitarium, extended care facility, or other facility, hereinafter referred to as “health care institutions,” where medicinal drugs are compounded, dispensed, stored, or sold.

3. The term “nuclear pharmacy” includes every location where radioactive drugs and chemicals within the classification of medicinal drugs are compounded, dispensed, stored, or sold. The term “nuclear pharmacy” does not include hospitals licensed under chapter 395 or the nuclear medicine facilities of such hospitals.

4. The term “special pharmacy” includes every location where medicinal drugs are compounded, dispensed, stored, or sold if such locations are not otherwise defined in this subsection.

5. The term “Internet pharmacy” includes locations not otherwise licensed or issued a permit under this chapter, within or outside this state, which use the Internet to communicate with or obtain information

from consumers in this state and use such communication or information to fill or refill prescriptions or to dispense, distribute, or otherwise engage in the practice of pharmacy in this state. Any act described in this definition constitutes the practice of the profession of pharmacy as ~~defined in subsection (13).~~

(b) The pharmacy department of any permittee shall be considered closed whenever a Florida licensed pharmacist is not present and on duty. The term “not present and on duty” shall not be construed to prevent a pharmacist from exiting the prescription department for the purposes of consulting or responding to inquiries or providing assistance to patients or customers, attending to personal hygiene needs, or performing any other function for which the pharmacist is responsible, provided that such activities are conducted in a manner consistent with the pharmacist’s responsibility to provide pharmacy services.

~~(21)~~(12) “Pharmacy intern” means a person who is currently registered in, and attending, a duly accredited college or school of pharmacy, or who is a graduate of such a school or college of pharmacy, and who is duly and properly registered with the department as provided for under its rules.

~~(22)~~(13) “Practice of the profession of pharmacy” includes compounding, dispensing, and consulting concerning contents, therapeutic values, and uses of any medicinal drug; consulting concerning therapeutic values and interactions of patent or proprietary preparations, whether pursuant to prescriptions or in the absence and entirely independent of such prescriptions or orders; and conducting other pharmaceutical services. For purposes of this subsection, the term “other pharmaceutical services” means monitoring the patient’s drug therapy and assisting the patient in the management of his or her drug therapy, and includes reviewing, and making recommendations regarding, the patient’s drug therapy and health care status in communication with the patient’s prescribing health care provider as licensed under chapter 458, chapter 459, chapter 461, or chapter 466, or a similar statutory provision in another jurisdiction, or such provider’s agent or such other persons as specifically authorized by the patient; and initiating, modifying, or discontinuing drug therapy for a chronic health condition under a collaborative pharmacy practice agreement. This subsection may not be interpreted to permit an alteration of a prescriber’s directions, the diagnosis or treatment of any disease, the initiation of any drug therapy, the practice of medicine, or the practice of osteopathic medicine, unless otherwise permitted by law or specifically authorized by s. 465.1865 or s. 465.1895. The term “practice of the profession of pharmacy” also includes any other act, service, operation, research, or transaction incidental to, or forming a part of, any of the foregoing acts, requiring, involving, or employing the science or art of any branch of the pharmaceutical profession, study, or training, and shall expressly permit a pharmacist to transmit information from persons authorized to prescribe medicinal drugs to their patients. The practice of the profession of pharmacy also includes the administration of vaccines to adults pursuant to s. 465.189, the testing or screening for and treatment of minor, nonchronic health

conditions pursuant to s. 465.1895, and the preparation of prepackaged drug products in facilities holding Class III institutional pharmacy permits. The term also includes the ordering and evaluating of any laboratory or clinical testing; conducting patient assessments; and modifying, discontinuing, or administering medicinal drugs pursuant to s. 465.0125 by a consultant pharmacist.

~~(23)~~(14) “Prescription” includes any order for drugs or medicinal supplies written or transmitted by any means of communication by a duly licensed practitioner authorized by the laws of the state to prescribe such drugs or medicinal supplies and intended to be dispensed by a pharmacist. The term also includes an orally transmitted order by the lawfully designated agent of such practitioner. The term also includes an order written or transmitted by a practitioner licensed to practice in a jurisdiction other than this state, but only if the pharmacist called upon to dispense such order determines, in the exercise of her or his professional judgment, that the order is valid and necessary for the treatment of a chronic or recurrent illness. The term “prescription” also includes a pharmacist’s order for a product selected from the formulary created pursuant to s. 465.186. Prescriptions may be retained in written form or the pharmacist may cause them to be recorded in a data processing system, provided that such order can be produced in printed form upon lawful request.

~~(16)~~(15) “Nuclear pharmacist” means a pharmacist licensed by the department and certified as a nuclear pharmacist pursuant to s. 465.0126.

~~(6)~~(16) “Centralized prescription filling” means the filling of a prescription by one pharmacy upon request by another pharmacy to fill or refill the prescription. The term includes the performance by one pharmacy for another pharmacy of other pharmacy duties such as drug utilization review, therapeutic drug utilization review, claims adjudication, and the obtaining of refill authorizations.

~~(3)~~(17) “Automated pharmacy system” means a mechanical system that delivers prescription drugs received from a Florida licensed pharmacy and maintains related transaction information.

~~(9)~~(18) “Compounding” means combining, mixing, or altering the ingredients of one or more drugs or products to create another drug or product.

~~(17)~~(19) “Outsourcing facility” means a single physical location registered as an outsourcing facility under the federal Drug Quality and Security Act, Pub. L. No. 113-54, at which sterile compounding of a drug or product is conducted.

~~(8)~~(20) “Compounded sterile product” means a drug that is intended for parenteral administration, an ophthalmic or oral inhalation drug in aqueous format, or a drug or product that is required to be sterile under federal or state law or rule, which is produced through compounding, but is not approved by the United States Food and Drug Administration.

(5)(21) “Central distribution facility” means a facility under common control with a hospital holding a Class III institutional pharmacy permit that may dispense, distribute, compound, or fill prescriptions for medicinal drugs; prepare prepackaged drug products; and conduct other pharmaceutical services.

(7)(22) “Common control” means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, voting rights, contract, or otherwise.

Section 4. Paragraph (d) of subsection (2) and paragraph (a) of subsection (4) of section 465.019, Florida Statutes, are amended to read:

465.019 Institutional pharmacies; permits.—

(2) The following classes of institutional pharmacies are established:

(d)1. “Class III institutional pharmacies” are those institutional pharmacies, including central distribution facilities, affiliated with a hospital which ~~that~~ provide the same services that are authorized by a Class II institutional pharmacy permit. Class III institutional pharmacies may also:

a. Dispense, distribute, compound, and fill prescriptions for medicinal drugs for inpatient treatment or for patients receiving acute and post-acute hospital care at home.

b. Prepare prepackaged drug products.

c. Conduct other pharmaceutical services for the affiliated hospital and for entities under common control that are each permitted under this chapter to possess medicinal drugs.

d. Provide the services in sub-subparagraphs a.-c. to an entity under common control which holds an active health care clinic establishment permit as required under s. 499.01(2)(r).

2. A Class III institutional pharmacy shall maintain policies and procedures addressing:

a. The consultant pharmacist responsible for pharmaceutical services.

b. Safe practices for the preparation, dispensing, prepackaging, distribution, and transportation of medicinal drugs and prepackaged drug products.

c. Recordkeeping to monitor the movement, distribution, and transportation of medicinal drugs and prepackaged drug products.

d. Recordkeeping of pharmacy staff responsible for each step in the preparation, dispensing, prepackaging, transportation, and distribution of medicinal drugs and prepackaged drug products.

e. Medicinal drugs and prepackaged drug products that may not be safely distributed among Class III institutional pharmacies.

(4)(a) Medicinal drugs shall be dispensed by in an institutional pharmacy to outpatients only when that institution has secured a community pharmacy permit from the department. However, medicinal drugs may be dispensed by a hospital that operates a Class II or Class III institutional pharmacy to a patient of the hospital’s emergency department or a hospital inpatient upon discharge if a prescriber, as defined in s. 465.025(1), treating the patient in such hospital determines that the medicinal drug is warranted and that community pharmacy services are not readily accessible, geographically or otherwise, to the patient. Such prescribing and dispensing must be for a supply of the drug that will last for the greater of the following:

1. Up to 48 hours; or
2. Through the end of the next business day.

Section 5. Subsection (1) of section 14.33, Florida Statutes, is amended to read:

14.33 Medal of Heroism.—

(1) The Governor may award a Medal of Heroism of appropriate design, with ribbons and appurtenances, to a law enforcement, correctional, or correctional probation officer, as defined in s. 943.10(14); a firefighter, as defined in s. 112.191(1)(b); an emergency medical technician, as defined in s. 401.23 ~~s. 401.23(11)~~; or a paramedic, as defined in s. 401.23 ~~s. 401.23(17)~~. A recipient must have distinguished himself or herself conspicuously by gallantry and intrepidity, must have risked his or her life deliberately above and beyond the call of duty while performing duty in his or her respective position, and must have engaged in hazardous or perilous activities to preserve lives with the knowledge that such activities might result in great personal harm.

Section 6. Subsection (1) of section 125.01045, Florida Statutes, is amended to read:

125.01045 Prohibition of fees for first responder services.—

(1) A county may not impose a fee or seek reimbursement for any costs or expenses that may be incurred for services provided by a first responder, including costs or expenses related to personnel, supplies, motor vehicles, or equipment in response to a motor vehicle accident, except for costs to contain or clean up hazardous materials in quantities reportable to the Florida State Warning Point at the Division of Emergency Management, and costs for transportation and treatment provided by air ambulance services or emergency medical services vehicles, as those terms are defined in s. 401.23 ~~ambulance services licensed pursuant to s. 401.23(4) and (5)~~.

Section 7. Subsection (1) of section 166.0446, Florida Statutes, is amended to read:

166.0446 Prohibition of fees for first responder services.—

(1) A municipality may not impose a fee or seek reimbursement for any costs or expenses that may be incurred for services provided by a first responder, including costs or expenses related to personnel, supplies, motor vehicles, or equipment in response to a motor vehicle accident, except for costs to contain or clean up hazardous materials in quantities reportable to the Florida State Warning Point at the Division of Emergency Management, and costs for transportation and treatment provided by air ambulance services or emergency medical services vehicles, as those terms are defined in s. 401.23 ~~ambulance services licensed pursuant to s. 401.23(4) and (5).~~

Section 8. Paragraph (a) of subsection (3) of section 252.515, Florida Statutes, is amended to read:

252.515 Postdisaster Relief Assistance Act; immunity from civil liability.

(3) As used in this section, the term:

(a) “Emergency first responder” means:

1. A physician licensed under chapter 458.
2. An osteopathic physician licensed under chapter 459.
3. A chiropractic physician licensed under chapter 460.
4. A podiatric physician licensed under chapter 461.
5. A dentist licensed under chapter 466.
6. An advanced practice registered nurse licensed under s. 464.012.
7. A physician assistant licensed under s. 458.347 or s. 459.022.
8. A worker employed by a public or private hospital in the state.
9. A paramedic as defined in s. 401.23 ~~s. 401.23(17)~~.
10. An emergency medical technician as defined in s. 401.23 ~~s. 401.23(11)~~.
11. A firefighter as defined in s. 633.102.
12. A law enforcement officer as defined in s. 943.10.
13. A member of the Florida National Guard.
14. Any other personnel designated as emergency personnel by the Governor pursuant to a declared emergency.

Section 9. Subsection (5) of section 395.1027, Florida Statutes, is amended to read:

395.1027 Regional poison control centers.—

(5) By October 1, 1999, each regional poison control center shall develop a prehospital emergency dispatch protocol with each licensee as defined in s. 401.23 ~~by s. 401.23(13)~~ in the geographic area covered by the regional poison control center. The prehospital emergency dispatch protocol shall be developed by each licensee's medical director in conjunction with the designated regional poison control center responsible for the geographic area in which the licensee operates. The protocol shall define toxic substances and describe the procedure by which the designated regional poison control center may be consulted by the licensee. If a call is transferred to the designated regional poison control center in accordance with the protocol established under this section and s. 401.268, the designated regional poison control center shall assume responsibility and liability for the call.

Section 10. Paragraph (b) of subsection (1) of section 400.143, Florida Statutes, is amended to read:

400.143 Institutional formularies established by nursing home facilities.

(1) For purposes of this section, the term:

(b) "Medicinal drug" has the same meaning as provided in s. 465.003 ~~s. 465.003(8)~~.

Section 11. Paragraph (b) of subsection (2) of section 401.245, Florida Statutes, is amended to read:

401.245 Emergency Medical Services Advisory Council.—

(2)(b) Representation on the Emergency Medical Services Advisory Council shall include: two licensed physicians who are medical directors ~~"medical directors"~~ as defined in s. 401.23 ~~s. 401.23(15)~~ or whose medical practice is closely related to emergency medical services; two emergency medical service administrators, one of whom is employed by a fire service; two certified paramedics, one of whom is employed by a fire service; two certified emergency medical technicians, one of whom is employed by a fire service; one emergency medical services educator; one emergency nurse; one hospital administrator; one representative of air ambulance services; one representative of a commercial ambulance operator; and two laypersons who are in no way connected with emergency medical services, one of whom is a representative of the elderly. Ex officio members of the advisory council from state agencies shall include, but ~~are shall not be~~ limited to, representatives from the Department of Education, the Department of Management Services, the State Fire Marshal, the Department of Highway Safety and Motor Vehicles, the Department of Transportation, and the Division of Emergency Management.

Section 12. Subsection (2) of section 401.27, Florida Statutes, is amended to read:

401.27 Personnel; standards and certification.—

(2) The department shall establish by rule educational and training criteria and examinations for the certification and recertification of emergency medical technicians and paramedics. Such rules must require, but need not be limited to:

(a) For emergency medical technicians, proficiency in basic life support as defined techniques identified in s. 401.23 s. 401.23(7) and in rules of the department.

(b) For paramedics, proficiency in advanced life support as defined techniques identified in s. 401.23 s. 401.23(1) and in rules of the department.

Section 13. Paragraph (a) of subsection (1) of section 409.9201, Florida Statutes, is amended to read:

409.9201 Medicaid fraud.—

(1) As used in this section, the term:

(a) “Prescription drug” means any drug, including, but not limited to, finished dosage forms or active ingredients that are subject to, defined in, or described in s. 503(b) of the Federal Food, Drug, and Cosmetic Act or in s. 465.003 s. 465.003(8), s. 499.003(17), s. 499.007(13), or s. 499.82(10).

The value of individual items of the legend drugs or goods or services involved in distinct transactions committed during a single scheme or course of conduct, whether involving a single person or several persons, may be aggregated when determining the punishment for the offense.

Section 14. Paragraph (pp) of subsection (1) of section 458.331, Florida Statutes, is amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(pp) Applicable to a licensee who serves as the designated physician of a pain-management clinic as defined in s. 458.3265 or s. 459.0137:

1. Registering a pain-management clinic through misrepresentation or fraud;

2. Procuring, or attempting to procure, the registration of a pain-management clinic for any other person by making or causing to be made, any false representation;

3. Failing to comply with any requirement of chapter 499, the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., the Drug Abuse Prevention and Control Act; or chapter 893, the Florida Comprehensive Drug Abuse Prevention and Control Act;

4. Being convicted or found guilty of, regardless of adjudication to, a felony or any other crime involving moral turpitude, fraud, dishonesty, or deceit in any jurisdiction of the courts of this state, of any other state, or of the United States;

5. Being convicted of, or disciplined by a regulatory agency of the Federal Government or a regulatory agency of another state for, any offense that would constitute a violation of this chapter;

6. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to the practice of, or the ability to practice, a licensed health care profession;

7. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to health care fraud;

8. Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined in s. 465.003 ~~s. 465.003(14)~~ or s. 893.02 if the dispensing practitioner knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship; or

9. Failing to timely notify the board of the date of his or her termination from a pain-management clinic as required by s. 458.3265(3).

Section 15. Paragraph (rr) of subsection (1) of section 459.015, Florida Statutes, is amended to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(rr) Applicable to a licensee who serves as the designated physician of a pain-management clinic as defined in s. 458.3265 or s. 459.0137:

1. Registering a pain-management clinic through misrepresentation or fraud;

2. Procuring, or attempting to procure, the registration of a pain-management clinic for any other person by making or causing to be made, any false representation;

3. Failing to comply with any requirement of chapter 499, the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., the Drug Abuse Prevention and Control Act; or chapter 893, the Florida Comprehensive Drug Abuse Prevention and Control Act;

4. Being convicted or found guilty of, regardless of adjudication to, a felony or any other crime involving moral turpitude, fraud, dishonesty, or deceit in any jurisdiction of the courts of this state, of any other state, or of the United States;

5. Being convicted of, or disciplined by a regulatory agency of the Federal Government or a regulatory agency of another state for, any offense that would constitute a violation of this chapter;

6. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to the practice of, or the ability to practice, a licensed health care profession;

7. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to health care fraud;

8. Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined in s. 465.003 ~~s. 465.003(14)~~ or s. 893.02 if the dispensing practitioner knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship; or

9. Failing to timely notify the board of the date of his or her termination from a pain-management clinic as required by s. 459.0137(3).

Section 16. Subsection (1) of section 465.014, Florida Statutes, is amended to read:

465.014 Pharmacy technician.—

(1) A person other than a licensed pharmacist or pharmacy intern may not engage in the practice of the profession of pharmacy, except that a licensed pharmacist may delegate to pharmacy technicians who are registered pursuant to this section those duties, tasks, and functions that do not fall within the purview of s. 465.003 ~~s. 465.003(13)~~. All such delegated acts must be performed under the direct supervision of a licensed pharmacist who is responsible for all such acts performed by persons under his or her supervision. A registered pharmacy technician, under the

supervision of a pharmacist, may initiate or receive communications with a practitioner or his or her agent, on behalf of a patient, regarding refill authorization requests. A licensed pharmacist may not supervise more than one registered pharmacy technician unless otherwise permitted by the guidelines adopted by the board. The board shall establish guidelines to be followed by licensees or permittees in determining the circumstances under which a licensed pharmacist may supervise more than one pharmacy technician.

Section 17. Paragraph (c) of subsection (2) of section 465.015, Florida Statutes, is amended to read:

465.015 Violations and penalties.—

(2) It is unlawful for any person:

(c) To sell or dispense drugs as defined in s. 465.003 ~~s. 465.003(8)~~ without first being furnished with a prescription.

Section 18. Subsection (9) of section 465.0156, Florida Statutes, is amended to read:

465.0156 Registration of nonresident pharmacies.—

(9) Notwithstanding s. 465.003 ~~s. 465.003(10)~~, for purposes of this section, the registered pharmacy and the pharmacist designated by the registered pharmacy as the prescription department manager or the equivalent must be licensed in the state of location in order to dispense into this state.

Section 19. Paragraph (s) of subsection (1) of section 465.016, Florida Statutes, is amended to read:

465.016 Disciplinary actions.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(s) Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined in s. 465.003 ~~by s. 465.003(14)~~ or s. 893.02 when the pharmacist knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship.

Section 20. Subsection (4) of section 465.0197, Florida Statutes, is amended to read:

465.0197 Internet pharmacy permits.—

(4) Notwithstanding s. 465.003 ~~s. 465.003(10)~~, for purposes of this section, the Internet pharmacy and the pharmacist designated by the Internet pharmacy as the prescription department manager or the

equivalent must be licensed in the state of location in order to dispense into this state.

Section 21. Paragraph (j) of subsection (5) of section 465.022, Florida Statutes, is amended to read:

465.022 Pharmacies; general requirements; fees.—

(5) The department or board shall deny an application for a pharmacy permit if the applicant or an affiliated person, partner, officer, director, or prescription department manager or consultant pharmacist of record of the applicant:

(j) Has dispensed any medicinal drug based upon a communication that purports to be a prescription as defined in s. 465.003 ~~by s. 465.003(14)~~ or s. 893.02 when the pharmacist knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship that includes a documented patient evaluation, including history and a physical examination adequate to establish the diagnosis for which any drug is prescribed and any other requirement established by board rule under chapter 458, chapter 459, chapter 461, chapter 463, chapter 464, or chapter 466.

For felonies in which the defendant entered a plea of guilty or nolo contendere in an agreement with the court to enter a pretrial intervention or drug diversion program, the department shall deny the application if upon final resolution of the case the licensee has failed to successfully complete the program.

Section 22. Paragraph (h) of subsection (1) of section 465.023, Florida Statutes, is amended to read:

465.023 Pharmacy permittee; disciplinary action.—

(1) The department or the board may revoke or suspend the permit of any pharmacy permittee, and may fine, place on probation, or otherwise discipline any pharmacy permittee if the permittee, or any affiliated person, partner, officer, director, or agent of the permittee, including a person fingerprinted under s. 465.022(3), has:

(h) Dispensed any medicinal drug based upon a communication that purports to be a prescription as defined in s. 465.003 ~~by s. 465.003(14)~~ or s. 893.02 when the pharmacist knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship that includes a documented patient evaluation, including history and a physical examination adequate to establish the diagnosis for which any drug is prescribed and any other requirement established by board rule under chapter 458, chapter 459, chapter 461, chapter 463, chapter 464, or chapter 466.

Section 23. Section 465.1901, Florida Statutes, is amended to read:

465.1901 Practice of orthotics and pedorthics.—The provisions of chapter 468 relating to orthotics or pedorthics do not apply to any licensed pharmacist or to any person acting under the supervision of a licensed pharmacist. The practice of orthotics or pedorthics by a pharmacist or any of the pharmacist's employees acting under the supervision of a pharmacist shall be construed to be within the meaning of the term "practice of the profession of pharmacy" as defined set forth in s. 465.003 s. 465.003(13), and shall be subject to regulation in the same manner as any other pharmacy practice. The Board of Pharmacy shall develop rules regarding the practice of orthotics and pedorthics by a pharmacist. Any pharmacist or person under the supervision of a pharmacist engaged in the practice of orthotics or pedorthics is not precluded from continuing that practice pending adoption of these rules.

Section 24. Paragraph (j) of subsection (2) of section 465.1902, Florida Statutes, is amended to read:

465.1902 Prescription Drug Donation Repository Program.—

(2) DEFINITIONS.—As used in this section, the term:

(j) "Prescription drug" has the same meaning as the term "medicinal drugs" or "drugs," as those terms are defined in s. 465.003 s. 465.003(8), but does not include controlled substances, cancer drugs donated under s. 499.029, or drugs with an approved United States Food and Drug Administration risk evaluation and mitigation strategy that includes elements to assure safe use.

Section 25. Subsection (40) of section 499.003, Florida Statutes, is amended to read:

499.003 Definitions of terms used in this part.—As used in this part, the term:

(40) "Prescription drug" means a prescription, medicinal, or legend drug, including, but not limited to, finished dosage forms or active pharmaceutical ingredients subject to, defined by, or described by s. 503(b) of the federal act or s. 465.003 s. 465.003(8), s. 499.007(13), subsection (31), or subsection (47), except that an active pharmaceutical ingredient is a prescription drug only if substantially all finished dosage forms in which it may be lawfully dispensed or administered in this state are also prescription drugs.

Section 26. Paragraph (c) of subsection (24) of section 893.02, Florida Statutes, is amended to read:

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(24) "Prescription" includes any order for drugs or medicinal supplies which is written or transmitted by any means of communication by a

licensed practitioner authorized by the laws of this state to prescribe such drugs or medicinal supplies, is issued in good faith and in the course of professional practice, is intended to be dispensed by a person authorized by the laws of this state to do so, and meets the requirements of s. 893.04.

(c) A prescription for a controlled substance may not be issued on the same prescription blank with another prescription for a controlled substance that is named or described in a different schedule or with another prescription for a medicinal drug, as defined in s. 465.003 ~~s. 465.003(8)~~, that is not a controlled substance.

Section 27. This act shall take effect July 1, 2022.

Approved by the Governor April 6, 2022.

Filed in Office Secretary of State April 6, 2022.